

Notice of Allowability

Application No.

09/991,339

Examiner

Kristie D. Shingles

Applicant(s)

ROLIA, JEROME

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/25/2007.
2. ☒ The allowed claim(s) is/are 1,2,4-7,9-12,14-21,23-26 and 28-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

kds/20070827

DETAILED ACTION

Response to Amendment

Claims 1, 12, 20 and 31 have been amended.
Claims 3, 8, 13, 22 and 27 have been cancelled.

Claims 1, 2, 4-7, 9-12, 14-21, 23-26 and 28-35 are pending.

Claims 1, 2, 4-7, 9-12, 14-21, 23-26 and 28-35 are allowed.

Response to Arguments

I. Applicant's arguments (see Remarks pages 10-15) filed 6/25/2007, with respect to independent claims 1, 12, 20 and 31 been fully considered and are persuasive. Therefore the 35 U.S.C. 103(a) rejection of the pending claims has been withdrawn.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance

II. The prior art or record fails to teach neither singly nor in combination, the claimed limitations of "calculating a plurality of demand value for a plurality of components, wherein said plurality of demand values is calculated from a combination of throughput and utilization metrics, wherein said components are communicatively coupled in series, wherein processing of a request from a user received at a first component of said plurality of components proceeds forward through said components to a last component in said series and then backward through said components to said first component and then to said user, wherein a performance of service is suspended at each of said components after said processing of a request by said each of said

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components, and wherein said metrics are measurable at points between said components; [and] predicting a plurality of response time metrics for said plurality of components based on said plurality of demand values” as stated in independent Claims 1, 12, 20 and 31 (see Applicant's Specification, pages 4 and 11-17).

The prior art: *Shahabuddin et al* (US 6,877,035), *Underwood* (US 6,704,873), *Bhat et al* (US 6,279,039), *Orfali* (US 6,807,522) and *Al-Hilali et al* (US 6,086,618) while teaching resource allocation based upon calculated cost assessments, fails to suggest the limitations above in addition to “modeling said plurality of components based on an objective function that responds to conditions as represented by said plurality of response time metrics when at least one of said plurality or response time metrics does not satisfy at least one of a plurality of service level objectives to determine a new effective distribution of computational resources throughout said plurality of components such that said plurality of components that are modeled satisfies said plurality of service level objective; and allocating computational resources throughout said plurality of components to reflect said new effective distribution” as cited in Claims 1, 12, 20 and 31.

As discussed in Applicant's Remarks filed 6/25/2007, these limitations, in conjunction with other limitations in the independent and dependent claims, are not specifically disclosed or remotely suggested in the prior art of record. A review of Claims 1, 2, 4-7, 9-12, 14-21, 23-26 and 28-35 in view of the Examiner's remarks above, indicates that Claims 1, 2, 4-7, 9-12, 14-21, 23-26 and 28-35 are allowable over the prior art of record. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be

clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

III. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
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